

THE
CAMBRIDGE LAW
JOURNAL
1996

EDITOR
M.J. PRICHARD, M.A., LL.B.

PUBLISHED FOR THE
FACULTY OF LAW, UNIVERSITY OF CAMBRIDGE



CAMBRIDGE
UNIVERSITY PRESS

Published by the Press Syndicate of the University of Cambridge
The Edinburgh Building, Cambridge CB2 2RU
40 West 20th Street, New York, NY 10011-4211, U.S.A.
10 Stamford Road, Oakleigh, Melbourne 3166, Australia

© The Cambridge Law Journal and
Contributors, 1996

ISSN 0008-1973

Printed in the United Kingdom by Rexam Digital Imaging Ltd., Reading

EDITORIAL COMMITTEE

M.J. PRICHARD, ESQ., *Editor*

DR. M.A. CLARKE, *Secretary and Treasurer*

PROFESSOR J.H. BAKER

PROFESSOR J.A. JOLOWICZ, *Note Editor*

PROFESSOR A.T.H. SMITH, *Note Editor*

PROFESSOR J.R. SPENCER, *Note Editor*

PROFESSOR SIR DAVID WILLIAMS

PROFESSOR GLANVILLE WILLIAMS

DR. A.W.E. BAINHAM, *Note Editor*

S.N. BRIDGE, ESQ., *Note Editor*

DR. C.F. FORSYTH

R.J.A. HOOLEY, ESQ., *Note Editor*

MRS. C.A. HOPKINS, *Note Editor*

DR. A.V. LOWE, *Note Editor*

DR. R.J.C. MUNDAY, *Book Review Editor*

DR. P.J. ROGERSON

C.C. TURPIN, ESQ.

CONTRIBUTORS OF ARTICLES

ALLAN, T.R.S. Citizenship and Obligation: Civil Disobedience and Civil Dissent	89
BAKER, J.H. Sir John Melton's Case (1535): Cockermouth Castle and the Three Silver Luces	249
BRAZIER, RODNEY Who Owns State Papers?	65
BRIDGE, STUART Former Tenants, Future Liabilities and the Privity of Contract Principle: The Landlord and Tenant (Covenants) Act 1995	313
CARTWRIGHT, JOHN Remoteness of Damage in Contract and Tort: A Reconsideration	488
CRAIG, P.P. Substantive Legitimate Expectations in Domestic and Community Law	289
FORSYTH, CHRISTOPHER Of Fig Leaves and Fairy Tales: The Ultra Vires Doctrine, the Sovereignty of Parliament and Judicial Review	122
FOX, DAVID Bona Fide Purchase and the Currency of Money	547
HARTLEY, TREVOR C. Five Forms of Uncertainty in European Community Law	265
HEPPLE, BOB: The Renewal of the Liberal Law Degree	470
KRAMER, MATTHEW H. & SIMMONDS, NIGEL E. Getting the Rabbit out of the Hat: A Critique of Anthony Kronman's Theory of Contracts	358
LUCY, WILLIAM N.R. & MITCHELL, CATHERINE Replacing Private Property: The Case for Stewardship	566
MITCHELL, CATHERINE (with LUCY, WILLIAM N.R.): Replacing Private Property: The Case for Stewardship	566
ROSE, F.D. Cargo Risks: "Dangerous Goods"	601
SIMMONDS, NIGEL E. (with KRAMER, MATTHEW H.): Getting the Rabbit out of the Hat: A Critique of Anthony Kronman's Theory of Contracts	358
SULLIVAN, G.R. The Attribution of Culpability to Limited Companies	515

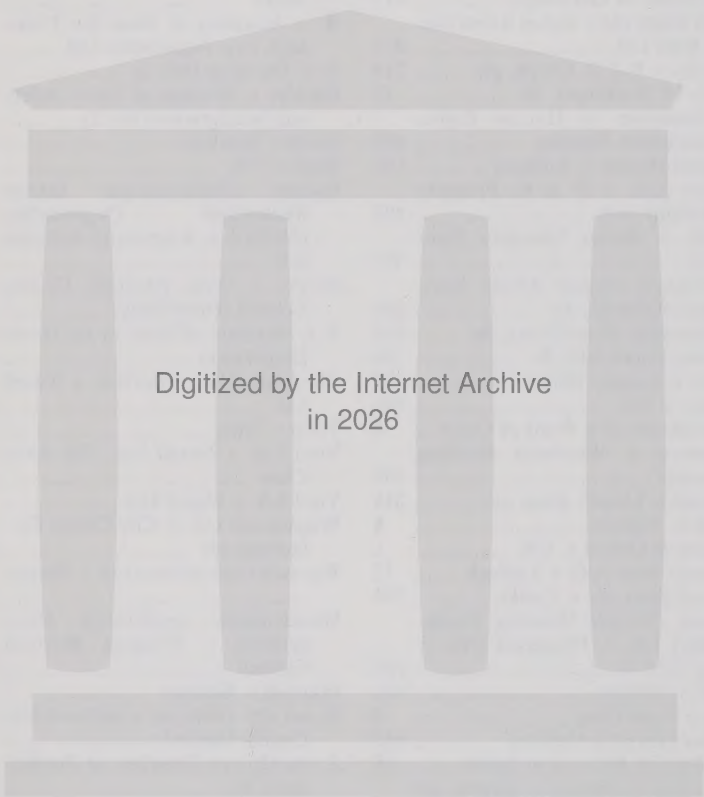
CONTRIBUTORS OF SHORTER ARTICLES

FENWICK, HELEN & PHILLIPSON, GAVIN Confidence and Privacy: A Re-Examination	447
GOLDSON, PETER (with HYLTON, B. ST. MICHAEL): The New Tort of Appropriation of Personality: Protecting Bob Marley's Face	56
HYLTON B. ST. MICHAEL & GOLDSON, PETER The New Tort of Appropriation of Personality: Protecting Bob Marley's Face	56
KERBEL, TAMARA The Licensee's Period of Grace: <i>Bellotti</i> Reconsidered	229
MURPHY, JOHN Expectation Losses, Negligent Omissions and the Tortious Duty of Care	43
O'SULLIVAN, JANET In Defence of <i>Foakes v. Beer</i>	219

PHILLIPSON, GAVIN (with FENWICK, HELEN): Confidence and Privacy: A Re- Examination	447
TASIOULAS, JOHN The Paradox of Equity	456
TEE, LOUISE Gently Reforming Land Registration: The Latest Law Commission Report and Draft Bill	241
TETTENBORN, ANDREW Trust Property and Conversion: An Equitable Confusion?	36

CASES ANNOTATED

Allied Maples Ltd. v. Simmons & Simmons	187	R. v. Coventry City Council, <i>ex p.</i> Phoenix Aviation	404
Arthur v. Anker	423	R. v. Cowan	32
Attorney-General's Reference (No. 3 of 1994)	207	R. v. H.M. Treasury, <i>ex p.</i> British Telecommunications plc	414
Bank of Credit and Commerce International S.A. (No. 8), <i>Re</i> ...	438	R. v. Ministry of Agriculture, Fisheries and Food, <i>ex p.</i> Hedley Lomas (Ireland) Ltd.	414
Boscawen v. Bajwa	199	R. v. Ministry of Defence, <i>ex p.</i> Smith	179
Brasserie du Pêcheur S.A. v. Federal Republic of Germany	412	R. v. Secretary of State for Transport, <i>ex p.</i> Factortame Ltd.	412
British Sugar plc v. James Robertson & Sons Ltd.	441	R. v. Thornton (No. 2)	420
Connelly v. R.T.Z. Corpn. plc	214	Reckley v. Minister of Public Safety and Immigration (No. 2)	401
Dennis (A Bankrupt), <i>Re</i>	21	Revill v. Newbery	182
EU Accession to Human Rights Convention Opinion	409	Singh v. UK	406
Firstpost Homes v. Johnson	192	Société d'Informatique Service Réalisation Organisation (SISRO) v. Ampersand Software B.V.	9
Graysim Ltd. v. P. & O. Property Holdings Ltd.	197	Stovin v. Wise (Norfolk County Council, Third Party)	425
Grogan v. Robin Meredith Plant Hire	427	T. v. Secretary of State for the Home Department	417
H. (Minors) (Sexual Abuse: Standard of Proof), <i>Re</i>	209	<i>The Santa Clara</i> , Vitel S.A. v. Norelf Ltd.	430
H. (Paternity: Blood Test), <i>Re</i>	444	Tribe v. Tribe	23
Highway Foods Ltd. <i>Re</i>	26	Vitel S.A. v. Norelf Ltd., <i>The Santa Clara</i>	430
Hunter v. Canary Wharf Ltd.	185	Vitel S.A. v. Norelf Ltd.	14
Hussain v. UK	406	Wagamama Ltd. v. City Centre Restaurants plc	443
In the Matter of a Ward of Court ..	6	Warman International Ltd. v. Dwyer	201
Kpohraror v. Woolwich Building Society	189	Westdeutsche Landesbank Girozentrale v. Islington Borough Council	432
Marinari v. Lloyd's Bank plc	216	Whiston v. Whiston	16
Martin v. Watson	8	X and ors. (Minors) v. Bedfordshire County Council	29
McCann & Others v. UK	1	Z. (A Minor) (Freedom of Publication), <i>Re</i>	212
Mercedes Benz A.G v. Leiduck	12		
Midland Bank plc v. Cooke	194		
Neptune (Vehicle Washing Equipment) Ltd. v. Fitzgerald (No. 1) and (No. 2)	204		
Neville v. Wilson	436		
Nuclear Tests Case	3		
Nuclear Weapons Opinion	415		
R. v. Brent L.B.C., <i>ex p.</i> Awua	18		
R. v. Chief Constable of Sussex, <i>ex p.</i> International Trader's Ferry Ltd.	404		



Digitized by the Internet Archive
in 2026

BOOK REVIEWS

BARTON, CHRIS & DOUGLAS, GILLIAN: Law and Parenthood	392
BETTEN, LAMMY: The Employment Contract in Transforming Labour Relations ..	642
BIRDS, JOHN, BRADGATE, ROBERT & VILLIERS, CHARLOTTE (eds.): Termination of Contracts	163
BOROS, ELIZABETH J.: Minority Shareholders' Remedies	385
BOTTOMLEY, ANNE (ed.): Feminist Perspectives on the Foundational Subjects of Law	636
BRIDGES, LEE, MESZAROS, GEORGE & SUNKIN MAURICE: Judicial Review in Perspective	621
BRIGHT, SUSAN & GILBERT, GEOFF: Landlord and Tenant Law: The Nature of Tenancies	161
BROWN, DESMOND H.: The Birth of a Criminal Code: The Evolution of Canada's Justice System	621
BUECHTEMANN, CHRISTOPH F. (ed.): Employment Security and the Labour Market Behavior. Interdisciplinary Approaches and International Evidence	642
CROMARTIE, ALAN: Sir Matthew Hale 1609-1676: Law, Religion and Natural Philosophy	141
DAINTITH, TERENCE: Implementing EC Law in the United Kingdom: Structures for Indirect Rule	382
DAVIES, ELIZABETH W.: The Legal Status of British Dependent Territories: The West Indies and North Atlantic Region	165
DOYLE, BRIAN: Disability, Discrimination and Equal Opportunities: A Compar- ative Study of the Employment Rights of Disabled Persons	167
DUXBURY, NEIL: Patterns of American Jurisprudence	150
EDWARDS, SUSAN S.M.: Sex and Gender in the Legal Process	636
EPSTEIN, RICHARD A.: Simple Rules for a Complex World	154
EWING, K.D., GEARTY, C.-A. & HEPPLER, B.A. (eds.): Human Rights and Labour Law: Essays for Paul O'Higgins	169
EYFFINGER, ARTHUR: The International Court of Justice 1946-96	614
FELDMAN, DAVID & MEISEL, FRANK (eds.): Corporate and Commercial Law	624
FERNANDEZ MARTIN, JOSE M.: The EC Public Procurement Rules: A Critical Analysis	640
FORD, TROWBRIDGE H.: Henry Brougham and his World: A Biography	394
FOXHALL L. & LEWIS A.D.E. (eds.): Greek Law in its Political Setting: Justifications not Justice	632
FRANCK, THOMAS M.: Fairness in International Law and Institutions	617
GALLIGAN, D.J. (ed): A Reader on Administrative Law	621
GEDDES, A.C.: Protection of Individual Rights under EC Law	628
GOODRICH, PETER: Oedipus Lex: Psychoanalysis, History, Law	372
GRAVELLS, NIGEL P.: Land Law: Text and Materials	390
HAMILTON, CAROLYN & STANDLEY, KATE (eds.): Family Law in Europe	644
HAYES, MARY & WILLIAMS, CATHERINE: Family Law: Principles, Policy and Practice	393
HOROWITZ, HENRY: Chancery Equity Records and Proceedings 1600-1800: A Guide to Documents in the Public Record Office	146
JACKSON, JOHN & DORAN, SEAN: Judge without Jury: Diplock Trials in the Adversary System	147
KRUTZSCH, WALTER & TRAPP, RALF: A Commentary on the Conventional Weapons Convention	620
MACKAY, R.D.: Mental Condition Defences in the Criminal Law	378

MARMOR, ANDREI (ed.): Law and Interpretation: Essays in Legal Philosophy	150
MCGEE, ANDREW & WILLIAMS, CHRISTINA: The Business of Company Law	626
METAXAS-MARANGHIDIS, GEORGE (ed.): Intellectual Property Laws of Europe	646
NIPPEL, WILFRED: Public Order in Ancient Rome	160
OUGHTON, DAVID & DAVIS, MARTIN: Sourcebook on Contract Law	641
OUTHWAITE, R.B.: Clandestine Marriage in England 1500–1850	144
PICARDA, HUBERT: The Law and Practice Relating to Charities	383
RICKETT, CHARLES (ed.): Essays on Corporate Restructuring and Insolvency	645
ROBINSON, O.F.: The Criminal Law of Ancient Rome	631
ROGERS, A.P.V.: Law on the Battlefield	618
ROSE, FRANCIS (ed.): Restitution and the Conflict of Laws	170
ROSENNE, SHABTAI: The World Court: What it is and How it Works	614
SEALEY, RAPHAEL: The Justice of the Greeks	158
SHAPIRA, AMOS & DEWITT-ARRAR, KEREN (eds.): Introduction to the Law of Israel	628
SHEIKH, SALEEM and REES, WILLIAM: Corporate Governance and Corporate Control	387
STONE, PETER: The Conflict of Laws	172
SUBEDI, SURYA P.: Land and Maritime Zones of Peace in International Law	616
TEFF, HARVEY: Reasonable Care: Legal Perspectives on the Doctor–Patient Relationship	388
THOMPSON, MARK: Land Law	390
ULFSTEIN, GEIR: The Svalbard Treaty: From Terra Nullius to Norwegian Sovereignty	375
VANDELDELDE, KENNETH J.: Thinking Like a Lawyer: An Introduction to Legal Reasoning	634
WACKS, RAYMOND: Privacy and Press Freedom	164
ZICCARDI CAPALDO, GIULIANA: Repertory of Decisions of the International Court of Justice (1947–92)	614

SUBJECT INDEX 1996

† Indicates an article

*Indicates a book review

Other references are to notes

- Administrative Law
 - Judicial Review—see Judicial Review
 - †Legitimate expectations—
 - substantive rights 289
 - Reasons for decisions—
 - irrationality 179
 - *Text 621
- *Brougham, Henry 394
- Canada
 - *Criminal Code 376
- Children
 - Abuse—standard of proof 209
 - Human rights—detention 406
 - Local authority's statutory duty 29
 - Paternity—blood test 444
 - Publicity—restraint 212
- Civil Liberties
 - †Civil disobedience 89
 - Human rights, see Human Rights
 - Privacy
 - *Press freedom 164
 - †Confidence 447
- Civil Procedure
 - Mareva* injunction 12
- Commercial Law
 - Cheques—damages for
 - dishonour 189
 - Reservation of title clauses—
 - nemo dat* 26
 - Security—charge-back 438
- Company Law
 - *Corporate governance 387
 - *Corporate Law 624, 626
 - †Criminal liability 515
 - Insolvency—see insolvency
 - *Minority shareholders'
 - remedies 385
 - *Restructuring and insolvency ... 645
- Conflict of Laws
 - Brussels Convention—stay of
 - enforcement 9
 - Jurisdiction
 - Forum non conveniens*—legal
 - aid 214
 - Tort 216
- Mareva* injunction 12
- *Restitution 170
- *Text 172
- Constitutional Law
 - *British Dependent Territories ... 165
 - Prerogative—death penalty 401
 - Refugees—political offence 417
 - †Sovereignty of Parliament—
 - ultra vires doctrine 122
 - †State papers—ownership 65
- Contract Law
 - Anticipatory breach—
 - acceptance 14, 430
 - †Consideration 219
 - *Materials 641
 - †Remoteness of damage 488
 - Standard terms—incorporation .. 427
 - *Termination 163
- Criminal Law
 - *Defences of mental condition 378
- Homicide
 - Prenatal injury 207
 - Provocation 420
- Criminal Procedure and Evidence
 - *Northern Ireland—Diplock
 - trials 147
 - Right of silence 32
- Defamation
 - Damages 9
- Equity
 - *Charities 383
 - †Conversion 36
 - Equitable interests—formalities . 436
 - Fiduciaries—account of profits .. 201
 - †Paradox 456
- European Community Law
 - *Domestic impact in UK 382
 - *Intellectual property 646
 - Member states—liability for
 - damages 412
 - *Public procurement 640
 - *Rights of individuals under 628
 - Treaties—accession 409
 - Trade marks 441
 - †Uncertainty 265

- Family Law
- Bigamy—ancillary relief 16
 - Children—see Children
 - *European 644
 - *Parenthood 392
 - Paternity—blood test 444
 - *Principles 393
 - *Greek Law 632
 - *Hale, Sir Matthew 141
- Housing
- Children 19
 - Homelessness—temporary accommodation 18
- Human Rights
- European Convention 1
 - *Labour Law 169
- Insolvency
- *Corporate insolvency and restructuring 645
 - Relation back 21
- Intellectual Property
- *European 646
 - Trade marks 441
- International Law
- *Armed conflict 618
 - *Conventional weapons convention 620
 - *Fairness 617
 - Human rights—see Human Rights
 - *International court 614
 - *Peace—land and maritime zones 616
 - Nuclear weapons
 - Testing 413
 - Threat or use 415 - *Svalbard Treaty 375
- Irish Law
- Human rights 7
 - *Israeli Law 628
- Judicial Review
- Freedom of movement 404
 - Reasons for decisions—irrationality 179
 - *Reform 621
- Jurisprudence
- *American 150
 - *Common law tradition 373
 - *Feminist perspectives 636
 - *Interpretation 152
 - †Kronman's contract theory 358
 - *Legal reasoning 634
 - *Sex and gender in the legal process 636
 - *Simple rules 154
- Labour Law
- *Disabled persons' rights 167
 - *Human rights 169
 - *Interdisciplinary approaches 642
- Land Law
- Beneficial interest—quantification 194
 - Conveyancing
 - Contracts—signature 192
 - Equitable interests—formalities . 436 - †Registration of land—Law Commission 241
 - †Theory—private property and stewardship 566
 - *Text and materials 390
- Landlord and Tenant
- Business tenancy 197
 - †First tenant's liability 313
 - †Licensee's period of grace 229
 - *Tenancies—nature 161
- Legal Education
- *Feminist perspectives 636
 - †Reform 470
- Legal History
- *Chancery records in the Public Records Office 1600–1800 ... 146
 - *Clandestine marriage in England 1500–1850 144
 - †Contingent remainders—Sir John Melton's case 249
 - *Greek justice 158
 - *Hale, Sir Matthew 141
- Medical Law
- *Doctor–patient relationship 388
 - Withdrawing treatment 6
- Negligence
- Auditors 187
 - Causation—loss of chance 187
 - Duty of care—owed to burglar .. 182
 - †Omissions—economic loss 43
 - Statutory powers 425
- Northern Ireland
- *Diplock trials 147
- Norway
- *Svalbard Treaty 375
- Restitution
- *Conflict of laws 170
 - Illegality 23
 - Tracing and subrogation 199

Void contract	432	false accusations	4
Roman Law		Negligence—see Negligence	
*Criminal Law	631	Nuisance—interference with	
*Public order	160	television reception	184
Tort		Privacy—confidence	447
†Appropriation of personality ...	56	†Remoteness of damage	488
†Conversion—trust property	36	Statutory duty	29
Defamation—see Defamation		Trespass—wheel-clamping	423
†Economic loss—omissions	43	United States of America	
Malicious prosecution—		*Jurisprudence	150

Self-Determination of Peoples

A Legal Reappraisal

A. Cassese

This first comprehensive legal account asks how far self-determination is reshaping international relations and assesses the extent of its impact on traditional international institutions.

£60.00 HB 0 521 48187 2 393 pp.

Hersch Lauterpacht Memorial Lectures 12

Conflict of Laws

2nd Edition

J. G. Collier

An authoritative introduction to the principles which guide English courts when deciding cases containing a foreign element.

£70.00 HB 0 521 45545 6 462 pp.

£24.95 PB 0 521 45550 2

Cambridge Studies in International and Comparative Law

Regional Peace-keeping and International Enforcement: the Liberian Crisis

Edited by Marc Weller

Consulting Editor:

E. Lauterpacht C.B.E., Q.C.

Uniquely reproducing significant documents and providing a detailed analysis of the legal issues raised, this book examines military intervention in Liberia, and its repercussions for international peace enforcement.

£50.00 HB 0 521 47754 9 493 pp.

Cambridge International Documents Series 6

The International Law on Foreign Investment

M. Sornarajah

The author examines different techniques adopted by States for attracting foreign investment and for ensuring that foreign investment serves their economic objectives.

£60.00 HB 0 521 46528 1 440 pp.

Mutual Assistance in Criminal and Business Regulatory Matters

Edited by William C. Gilmore

Contains the basic international documents relating to the conditions under which one country will provide information and assistance to another in the investigation and prosecution of criminal offences.

£60.00 HB 0 521 47297 0 400 pp.

Cambridge International Documents Series 8

United Nations Legal Order

Volumes I and II

Edited by Oscar Schachter and Christopher C. Joyner

The purpose of this volume is to examine, explain and appraise contributions made by the United Nations system to international law and the law-creating process.

£120.00 HB 0 521 46522 2 1200 pp.



CAMBRIDGE
UNIVERSITY PRESS

The Edinburgh Building, Cambridge CB2 2RU